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From:

Sent: Thursday, July 15, 2010 12:49:02 PM

To:

Cc:

Subject: Levy on Retirement plans

As we discussed earlier, the revenue ruling on levying a present right to future income is Rev. Rul. 55-210, 1955-1 C.B. 544 (attached).

In addition, Treas. Reg. 301.6331-1(a) provides that while generally "a levy extends only to property possessed and obligations which exist at the time of the levy," those obligations exist "when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date." This is also addressed in IRM 5.11.6.1. The documents you provided to me indicate that your taxpayer is fully vested in his 401(k) plan, which would show that he has a present right to future income. I would recommend that you confirm this with the contact person I have referred you to. If that is factually correct, then the notice of levy you serve now will reach the right to future payments and no additional notice of levy needs to be served. However, because all the taxpayer has is a present right to future income, the plan administrator would not be required to honor this levy until benefits become payable. [REDACTED]

If you have any further questions about this issue, please contact me.

Thanks,